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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

13 **DAVID CARLTON BROWN,**

14 Petitioner,

15 v.

16 **M. E. POULOS, WARDEN,**

17 Respondent.

08CV0017 JM (NLS)

**NOTICE OF MOTION AND
MOTION TO DISMISS
PETITION FOR WRIT OF
HABEAS CORPUS**

U.S. Magistrate Judge: Hon. Nita
L. Stormes

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20 TO PETITIONER DAVID CARLTON BROWN:

21 COMES NOW Respondent, M. E. Poulos, Warden, California Institute for Men, by
22 and through his counsel, Edmund G. Brown, Jr., Attorney General for the State of California, and
23 Stephanie H. Chow, Deputy Attorney General, and moves this Court to dismiss the instant Petition
24 for Writ of Habeas Corpus because Brown is still pursuing remedies in state court, and the doctrine
25 of abstention prescribes dismissal without prejudice.

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1 Respondent's motion to dismiss is based on the accompanying Memorandum of
2 Points and Authorities in Support of Motion to Dismiss Petition for Writ of Habeas Corpus, the
3 accompanying lodgments to that memorandum and the pleadings already contained in the Court's
4 file.

5 WHEREFORE Respondent respectfully requests:

- 6 1. The underlying petition for federal habeas relief be dismissed without prejudice; and
7 2. For any other relief as the Court deems proper.

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9 Dated April 9, 2008

10 Respectfully submitted,

11 EDMUND G. BROWN JR.
12 Attorney General of the State of California
13 GARY W. SCHONS
14 Senior Assistant Attorney General
15 PETER QUON, JR.
16 Supervising Deputy Attorney General

17 /s/ STEPHANIE H. CHOW

18 STEPHANIE H. CHOW
19 Deputy Attorney General

20 Attorneys for Respondent

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Brown v. Poulos**

No.: **08CV0017 JM (NLS)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266.

On April 9, 2008, I served the attached **NOTICE OF MOTION AND MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS**, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at San Diego, California, addressed as follows:

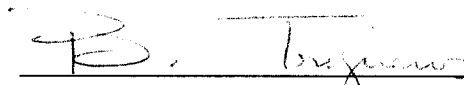
David C. Brown
P.O. Box 600
California Institute for Men
Chino, CA 91708-0600

pro-per

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 9, 2008, at San Diego, California.

B. Trigueros

Declarant


Signature

70119710.wpd